

STANDARD APPLICATION
Harford County
Board of Appeals
Bel Air, Maryland 21014

APR 4 2006

Case No. 5532
Date Filed 3/30/06
Hearing Date _____
Receipt _____
Fee 450.00

Shaded Areas for Office Use Only

Type of Application

- ☐ Administrative Decision/Interpretation
☐ Special Exception
☐ Use Variance
☐ Change/Extension of Non-Conforming Use
☐ Minor Area Variance
☐ Area Variance
☐ Variance from Requirements of the Code
☐ Zoning Map/Drafting Correction

Nature of Request and Section(s) of Code

CASE 5532 MAP 24 TYPE Variance

ELECTION DISTRICT 04 LOCATION 3912 Buckthorn Court, Jarrettsville 21084

BY Lawrence and Susanna Kuhn

Appealed because a variance pursuant to Sec. 267-35(B) Table III of the Harford County Code to permit an existing dwelling to encroach into the 50 foot rear yard setback (37 foot setback proposed) and to allow an existing deck pursuant to Sec. 267-23C(1)(a)[6] to encroach greater than the 25% into the rear yard setback (37.5 feet required and 27 feet proposed) in the RR/Rural Residential District, requiring approval by the Board of Appeals.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name LAWRENCE J. KUHN Phone Number 410-557-6321
Address 3912 BUCKTHORN COURT JARRETTSVILLE MD 21084
Street Number Street City State Zip Code

Co-Applicant SUSANNA M. KUHN Phone Number 410-557-6321
Address 3912 BUCKTHORN COURT JARRETTSVILLE MD 21084
Street Number Street City State Zip Code

Contract Purchaser _____ Phone Number _____
Address _____
Street Number Street City State Zip Code

Attorney/Representative _____ Phone Number _____
Address _____
Street Number Street City State Zip Code

Land Description

Address and Location of Property 3912 BUCKTHORN COURT

JARRETSVILLE, MD 21084

Subdivision SECTION TWO "NORTHAMPTON"

Lot Number 16

Acreage/Lot Size 0.74

Election District 04 VOM

Zoning RR

Tax Map No. 24

Grid No. 10

Parcel 247

Water/Sewer: Private ☒

Public ☒

List ALL structures on property and current use:

Estimated time required to present case: 1 hour

If this Appeal is in reference to a Building Permit, state number

Would approval of this petition violate the covenants and restrictions for your property? NO

Is this property located within the County's Chesapeake Bay Critical Area? Yes ☐ No ☐

If so, what is the Critical Area Land Use designations:

Is this request the result of a zoning enforcement investigation? Yes ☐ No ☒

Is this request within one (1) mile of any incorporated town limits? Yes ☐ No ☒

Request

We are seeking A VARIANCE for REAR YARD SETBACK for
Both the dwelling and the deck which were not
properly located by the builder.

Justification

PLEASE See attached

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

Lawrence & Susanna Kuhn
3912 Buckthorn Court
Jarrettsville, MD 21084

Please find below the reasons we feel a variance should be granted for the existing house and deck at 3912 Buckthorn Court:

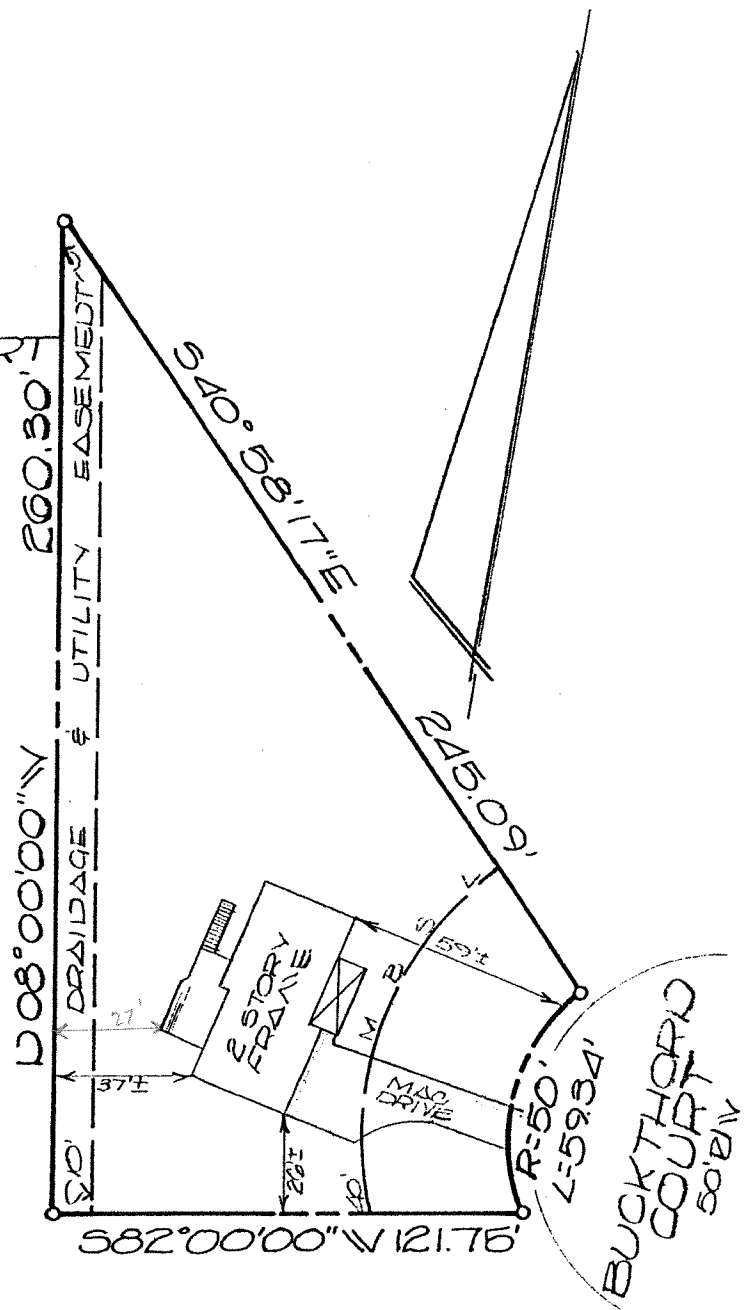
1. The property plot layout is very unique and non-standard. The shape is more triangular than the traditional square; this creates severe limitations to how the property is laid out and may be used.
2. The topography of the property is on a general downward slope. The decline varies from 25° to 45°. The deck provides a level area for outside enjoyment.
3. Please realize that the house and the attached deck were in place when the property was purchased in 1989. No mention of any zoning issues was ever brought forward. No issues were ever raised until my application for a new deck.
4. No complaints have ever been made regarding the size and the location of the house and deck in the 17 years we have lived here.
5. There is a set of double sliding doors that open onto the deck. Without the deck present, a drop-off of over 12 feet would exist. This would be a serious safety hazard.
6. All of the properties on the court were designed so that they could easily accommodate a full size deck without issue. My property was not designed so.
7. The side and rear of the property is heavily wooded, this provides additional privacy and a natural barrier between the adjacent properties. The deck has no impact on the neighboring properties.
8. I have attached written statements from my neighbors stating that they have no objections to a variance being issued.
9. I have recently purchased a hot tub intended for an outside deck. The money invested and the equipment is unusable until this matter is addressed.

I have included photographs of the deck, topographic and aerial views of both my property as well as the court and a copy of the original plot issued to me at purchase in 1989.

4TH ELECTION DISTRICT HARFORD CO, MD.

LOCATION SURVEY
3912 BUCKTHORN COURT
LOT NO. 16
SECTION TWO
"DORTHAMPTON"
PB NO. 17 FOLIO 29

NOTE:
NO TITLE
REPORT FURNISHED



NOTE: The information on this plat shows only that the improvements indicated hereon are contained within the outlines of the lot upon which they are erected and this Plat is not to be construed as an establishment of property lines.

NFIP DATA

Community No: 240040

Panel No: 0033A

Zone: C

THIS IS TO CERTIFY THAT WE HAVE MADE A LOCATION SURVEY OF THE IMPROVEMENTS, AND THAT THEY ARE LOCATED ON THE LOT AS SHOWN HEREON.

SURVEYOR REG. NO. MD124 DATE 6-22-89

File No.: 4H-L049

Scale: 1"=50' Date: 22 JUL 89

J. Finley Ransone & Associates
Registered Land Surveyors
P.O. Box 10160
Towson, Maryland
21285-0160







DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

May 2, 2006

STAFF REPORT

BOARD OF APPEALS CASE NO. 5532

APPLICANT/OWNER: Lawrence J. Kuhn
3912 Buckthorn Court, Jarrettsville, Maryland 21084

Co-APPLICANT: Susanna M. Kuhn
3912 Buckthorn Court, Jarrettsville, Maryland 21084

REPRESENTATIVE: Applicants

LOCATION: 3912 Buckthorn Court-Section 2 Northampton
Tax Map: 24 / Grid: 1D / Parcel: 247 / Lot: 16
Election District: Four (4)

ACREAGE: 0.74 of an acre

ZONING: RR/Rural Residential

DATE FILED: March 30, 2006

HEARING DATE: May 24, 2006

APPLICANT'S REQUEST and JUSTIFICATION:

Request:

"We are seeking a variance for rear yard setback for both the dwelling and the deck which were not properly located by the builder."

Justification:

Preserving Harford's past, promoting Harford's future

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Board of Appeals Case Number 5532

Lawrence and Susanna Kuhn

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See Attachment 1 and 1A.

CODE REQUIREMENTS:

The Applicants are requesting a variance pursuant to Section 267-35(B) Table III of the Harford County Code to permit an existing dwelling to encroach the 50 foot rear yard setback (37 foot setback proposed) and to allow an existing deck pursuant to section 267-23C(1)(a)[6] to encroach greater than 25% into the rear yard setback (37.5 feet required and 27 feet proposed) in the RR/Rural Residential District.

Enclosed with the report is a copy of Section 267-35(B) Table III of the Harford County Code (Attachment 2).

Section 267-23C (1)(a)[6] of the Harford County Code reads:

C. Exceptions and modifications to minimum yard requirements.

(1) Encroachment. [Amended by Bill No. 88-17]

(a) The following structures shall be allowed to encroach into the minimum yard requirements, not to exceed the following dimensions:

[6] Unenclosed patios and decks: up to, but not to exceed, twenty-five percent (25%) of the side or rear yard requirement for the district. No accessory structure shall be located within any recorded easement area.

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicants' property is located west of North Bend Road. This lot is located in the development of Northampton at the end of Buckthorn Court. A location map and a copy of the Applicants' site plan are enclosed with the report (Attachments 3 and 4).

The property is located outside of the Development Envelope. The predominant land use designation in this area of the County is Agricultural. The Natural features Map reflects Sensitive Species Project Areas, Maryland Environmental Trust Easements and Agricultural Preservation Districts and Easements, Deer Creek Scenic River District and Stream Systems. The subject property is designated as Agricultural which is defined by the 2004 Master Plan as:

***Agricultural** – Areas where agriculture is the primary land use, but where developments rights are available. Residential development is possible at a density of 1.0 dwelling unit for every 10 acres. Commercial uses within this area are intended to serve the agriculture industry or residents of the area while maintaining the character of the surrounding countryside.*

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Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 5 and 6).

Land Use – Existing:

The existing land uses conform to the intent of the 2004 Master Plan. The predominant land use is Agriculture which includes cropland, pastureland and large areas of dense woodland. Residential uses include single family dwellings. Commercial uses are generally located in the Rural Village Centers. The topography of this area ranges from rolling to steep especially near the stream valleys. A topography map and a copy of the aerial photograph are enclosed with the report (Attachments 7 and 8).

The Applicants' property is part of the single family residential development of Northhampton which was recorded in 1966 and adjoins the Spring Meadows Subdivision that was also recorded in 1966. Enclosed with the report is a copy of the record plat for this lot. (Attachments 9).

The lot is situated at the end of Buckthorn Court which is a cul-de-sac. The lot has a very unusual shape that creates a limited building envelope. In addition to its shape the lot contains steep topography. The property slopes down from the road to the front of the dwelling then continues to slope down to the rear property line. Along the rear property is a 10 foot easement that contains the sewer line to the package treatment plant. The front portion of the lot is open while the rear yard is wooded with mature trees. Improvements consist of a frame 2-story single family dwelling with a 2 car attached garage, a blacktopped driveway, and a deck attached to the rear of the dwelling. The deck appears to be very old and the steps have been removed. The applicants plan to replace the existing deck with a deck of the same size. Site photographs along with an enlargement of the aerial photograph are attached (Attachments 10 and 11).

Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. The predominant zoning classifications are AG/Agricultural and RR/Rural Residential. Commercial zoning is primarily found around the Village Centers. The Applicants' property is zoned RR/Rural Residential. Enclosed with the report is a copy of the zoning map (Attachment 12).

SUMMARY:

The Applicants are requesting a variance pursuant to Section 267-35(B) Table III of the Harford County Code to permit an existing dwelling to encroach the 50 foot rear yard setback (37 foot setback proposed) and to allow an existing deck pursuant to section 267-23C(1)(a)[6] to encroach greater than 25% into the rear yard setback (37.5 feet required and 27 feet proposed) in the RR/Rural Residential District.

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Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the applicant must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.


The Department finds that the subject property is unique based on its configuration and topography. The shape of the property severely restricts the buildable area of this lot. The builder located the house substantially behind the required setback line. Also, there are sliding glass doors from the back of the house that would be unuseable without the deck. The requested variances will not adversely impact the adjacent properties or the intent of the code.

The Applicants have provided statements from 5 of their neighbors indicating that they are aware of the requested variance and do not have an objection (Attachment 13).

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the requested variance be approved subject to the applicants obtaining all necessary permits and inspections.


Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review


Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/jf